



**Standing Orders relating to the Complaint Procedures of the Aotearoa
New Zealand Association of Social Workers**
Effective 1 July 2015

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Standing Orders relating to the Complaint Procedures of the Aotearoa New Zealand Association of Social Workers

Application

1. Reference in these Standing Orders to a Rule or Rules is a reference to the Constitution of the Aotearoa New Zealand Association of Social Workers (Inc.) (“the Association”).
2. Pursuant to Rules 2(p) and 16, the following Standing Orders apply from 13 April 2014.

Purpose, Interpretation and Principles

1. Purpose

The purpose of these procedures is to provide a framework for managing complaints about and discipline of Members of the Aotearoa New Zealand Association of Social Workers so that:

- (i) The public of New Zealand in general, and the clients of Member social workers in particular, are protected from poor professional practice or inappropriate professional behaviour; and
- (ii) Members accused of poor professional practice or inappropriate professional behaviour are dealt with fairly and with due process; and
- (iii) Complainants and Members, to the extent that it is possible, have culturally respectful processes available to them for complaint resolution.

2. Interpretation

In these procedures, unless the context otherwise requires:

Association means The Aotearoa New Zealand Association of Social Workers

Chair means a Barrister of the High Court of New Zealand, appointed by the Convenor to chair a Disciplinary Hearing or vary or revoke any orders of a Disciplinary Hearing Determination;

Charge means the description of a disciplinary offence alleged to have occurred

Chief Executive means the person appointed to the position of Chief Executive of the Aotearoa New Zealand Association of Social Workers, and any person for the time being appointed by the Board to act in that position.

Convenor means the person appointed by the Chief Executive to administer the Complaint Resolution Processes, and any person for the time being appointed by the Chief Executive to act in that position.

Cultural Safety includes:

- (i) Recognizing the inherent cultural bias and restrictiveness implicit in the machinery and institutions of mainstream New Zealand society; and
- (ii) Recognizing the significance and value of the customs, beliefs and practices of Maori; and
- (iii) Recognizing the significance and value of the customs, beliefs and practices of people from different ethnic and cultural groups; and
- (iv) Ensuring that, wherever possible, any person can conduct their affairs in the language of their choice, in settings which are culturally comfortable and with processes that are familiar, as defined by them.

Due Process means fairness of proceedings, and incorporates the principles of natural justice

Fitness Assessment means the process set out in the Association's Fitness Assessment Protocols, in force from time to time

Full Member means a Member of the Association who holds an approved and current Certificate of Competency.

Governance Board and Board means the duly elected Board of the Aotearoa New Zealand Association of Social Workers.

Lay Person means a person who is representative of the community and is neither registered nor qualified as a social worker.

Mana Enhancing means

- i. Respecting the dignity of the person;
- ii. Valuing the cultural, spiritual, human and natural contexts within which the person develops identity and self-respect;
- iii. Recognising that individual human value is not defined by the mistakes people make;
- iv. Providing opportunities for reconciliation, restoration and forgiveness.

Member means a member of the Aotearoa New Zealand Association of Social Workers, including: Full members; non-practicing members; members under Conditions; Associate members; Student members; Life members; and Provisional members; but excluding applicants for membership.

Participant of an Alternative Complaint Resolution Process means the Facilitator, the complainant or complainants, and the Member.

Principles of Natural Justice include:

- (i) The right to representation; and
- (ii) The right to full and timely information of complaints relating to oneself; and
- (iii) The right to reasonable opportunity to comment on the information and to have such comment considered and taken into account in reaching any determination about the complaint or any charges arising; and

(iv) The right to forewarning of probable outcome(s) or Order(s) and to be able to comment on those proposed outcome(s) or Order(s) before they are imposed; and

(v) The right to proceedings free of bias and predetermination.

Professional Misconduct means the definition of professional misconduct set out in paragraph 5 of these procedures.

Record of a Disciplinary Hearing includes any documentary evidence and the transcription of proceedings of a disciplinary hearing made under paragraph 23 of these procedures.

Want of Form means any defect, irregularity or omission in the application of the procedures which does not impact adversely on the outcome or does not lead to a miscarriage of justice.

Working Day means any day of the week other than: a Saturday; a Sunday; Good Friday; Easter Monday; ANZAC day; Labour day; the Sovereign's birthday; and any day in the period from and inclusive of 20 December in any year and 15 January in the following year.

3. Principles governing Procedures

(1) Any person exercising any function in relation to these procedures shall be guided by the following principles:

- i. The clients of social workers and the general public are entitled to protection from inappropriate or harmful professional conduct and/or practice;
- ii. Members are entitled to know that a complaint has been made about them at the earliest possible point in the proceedings;
- iii. Members are entitled to the expeditious resolution of complaints relating to them, subject to the demands of due process;
- iv. All actions taken under these procedures shall reflect the application of the principles of natural justice;
- v. All actions taken under these procedures shall reflect the application of mana enhancing principles;
- vi. Whenever a complainant or a Member is Maori, cultural safety issues must be given consideration;
- vii. Whenever a complainant or a Member is from any other ethnic or cultural group, cultural safety issues must be given consideration;
- viii. Proceedings may be conducted in any of the official languages of New Zealand, in whole, or in part, or in combination;
- ix. Where there are differences of opinion between the complainant and the Member on any organisational issue relating to complaint resolution, first regard shall be given to the preferences of the complainant;
- x. All matters relating to these procedures shall, at all times, proceed without bias or predetermination.

(2) For the avoidance of doubt, clauses 7-24 and the Schedules of these Procedures are subject to clause (1) of this clause.

- (3) No person shall participate as Convenor, Chair, Investigator, panel member, facilitator, lay person, or member of a Governance Board appeal body unless he or she has read and signed the Association's guideline relating to conflict of interest and bias.

Offences

4. Disciplinary Offences

A Member is guilty of a disciplinary offence in circumstances where he or she:

- (i) has been guilty of professional misconduct; or
- (ii) has been guilty of conduct that:
 - (a) is unbecoming of a social worker; and/or
 - (b) reflects adversely on the Member's fitness to practice as a social worker; or
- (iii) has been convicted by a court (in New Zealand or elsewhere) of an offence that:
 - (a) is punishable by imprisonment for a term of 3 months or longer; and
 - (b) was committed in circumstances that reflect adversely on the Member's fitness to practice as a social worker; or
- (iv) has failed to comply with any standard, negotiated or imposed condition on his or her membership of the Association.

5. Professional Misconduct

A Member is guilty of professional misconduct if he or she:

- (i) breaches the code of ethics; or
- (ii) while employed or engaged as a social worker, claims or holds himself or herself out to be a full Member while not holding a current Certificate of Competency, unless he or she have been given a written notice of exemption.

6. Good Faith Provision

The Convenor may reach a determination that a Member is not guilty of a disciplinary offence where the Member has practiced honestly and in good faith a theory of social work not in conflict with the Code of Ethics.

Complaints

7. Initiation of Complaint Procedures

These procedures are initiated when a complaint about a Member's practice and/or behaviour is received by the Association and:

- (i) The Member is registered, but the matters about which a complaint has been lodged occurred before the Member was registered; or
- (ii) The Member is registered and the Social Workers Registration Board has declined to investigate the complaint under the provisions of the Social Workers Registration Act 2003; or
- (iii) The Member is not registered; and is not subject to the complaint and disciplinary procedures of any public bodies or commissions or other relevant organisations (other than the Member's employer); or
- (iv) The Member is not registered and is subject to an employment disciplinary action and the Chief Executive determines that a breach of the Association's Code of Ethics may have occurred; or
- (v) The complaint relates to a registered or non-registered Member's non-compliance with any standard or negotiated or imposed condition of membership of the Association.

8. Chief Executive may initiate Complaint Procedures

The Chief Executive may lay a complaint where:

- i. A matter of serious concern has arisen about a registered or non-registered Member from the public record or from any other source where there is no person who is a complainant; or
- ii. In the course of a Fitness Assessment, the Chief Executive assesses that the matter(s) leading to the need for a Fitness Assessment may constitute professional misconduct; or
- iii. The Chief Executive assesses that a Member has acted improperly or inappropriately in the course of carrying out any role or function for the Association.

9. Limitation on pursuing complaint action

The following provisions apply:

- (i) A complaint must not be investigated in respect of a disciplinary offence already addressed by an appropriate legal person, commission or other relevant organisation, or an offence for which the Member was convicted if, when he or she became a Member, the Association was aware of the disciplinary offence or conviction and was adequately informed of the circumstances of the offence;
- (ii) Complaints about matters that occurred before the Member was a Member; or in the case of a Member, occurred more than seven (7) years prior to the receipt of the complaint; shall not activate these procedures;
- (iii) Where any complaint of an historical nature (i.e. in excess of 7 years prior to the receipt of the complaint) is received about a Member alleging:

- a. a Member's inappropriate or illegal interaction with children in a personal or professional capacity; or
- b. the Member's involvement in sexual offending, and/or pornography and/or violence towards persons; or
- c. a breach of trust by the Member in a professional relationship; the Chief Executive shall conduct a Fitness Assessment, whether or not the Member was a Member at the time of the alleged offences.

10. Procedure when a complaint initiates the Complaint Procedures

The Chief Executive shall:

- (i) Notify the complainant and the Member that the complaint has been received or made by the Chief Executive and comes within the ambit of these procedures; and
- (ii) Refer the complaint to the Convenor.

11. Procedure when Complainant withdraws

In any event where a complainant withdraws after the complaint process is initiated, or is unable or unwilling to proceed with the complaint, the Convenor shall have the power to:

- (i) Close the complaint and notify all relevant parties accordingly;
- (ii) Continue the complaint process as though the complainant had not withdrawn or was unable or unwilling to proceed with the complaint.

12. Procedure when Member resigns

If a Member resigns during any stage of the complaint process, the Convenor shall have the power to:

- (i) Close the complaint and notify all parties accordingly;
- (ii) Continue the complaint process and reach a determination about the complaint as though the Member had not resigned.

13. Procedure when a complaint does not initiate Complaint Procedures

When it appears to the Chief Executive that the complaint is properly the concern of any other legal person, commission or organisation, the Chief Executive shall:

- (i) Advise the complainant of the correct avenue of redress; and
- (ii) Advise the Member and the legal person, commission or organisation that a complaint to the Association has been received and is held pending the outcome of any investigation by the legal person, commission or organisation; and

- (iii) Arrange with the legal person, commission or organisation for access to any determination made about the complaint; and
- (iv) On receipt and consideration of that determination, either:
 - a. Close the complaint; or
 - b. Initiate the Complaint Procedures; or
 - c. Conduct a Fitness assessment.

Complaint Resolution Processes

14. Procedure when Convenor receives complaint made by the Chief Executive

Where the Chief Executive makes a complaint in terms of paragraph 8 (i), (ii) or (iii) of these procedures, the Convenor shall convene a disciplinary Hearing forthwith.

15. Procedure when Convenor receives complaint referred by the Chief Executive

On receipt of a complaint referred by the Chief Executive, the Convenor shall as soon as practicable:

- (i) Discuss the matter with the complainant and Member and the Complaints Advisory Group and
 - a. Determine whether the matter is frivolous, vexatious or malicious; and if so
 - b. Close the complaint and notify the complainant, the Member and any other person considered appropriate, in writing, of this fact and the reasons for the decision; or
- (ii) Discuss the matter with the complainant and Member and the Complaints Advisory Group and
 - a. Determine that the matter has insufficient substance to proceed; and if so
 - b. Close the complaint and notify the complainant, the Member and any other person considered appropriate, in writing, of this fact and the reasons for the decision; or
- (iii) Discuss the matter with the complainant and Member and the Complaints Advisory Group and thereafter reach a preliminary determination that the complaint has sufficient substance to proceed; and if so
- (iv) Determine whether or not the circumstances of the complaint, and/or the interests of the Member, the public or any member of the public and the Association, require the membership of the Member concerned to be suspended during the complaint resolution process, and if so, upon what terms; and

- (v) Notify the complainant, the Member and the Chief Executive of the preliminary determination and any possible determination about membership and the reasons for it; and
- (vi) Invite the Member to provide, in writing, within a time specified in the notification (being no less than 15 working days), a response to the preliminary determination and any proposed determination about membership; and
- (vii) Consider any response received from the Member; and
 - a. Close the complaint and advise the parties accordingly; and
 - b. Advise the parties of their right to appeal this decision to the Board of Governance; or
 - c. Advise the parties that the complaint has been moved to the early resolution or complaints resolution phase; and
 - d. Determine whether or not to proceed with any proposed determination affecting membership.

16. *Convenor may initiate an investigation*

In arriving at a determination to close the complaint, or at a preliminary determination that a complaint has sufficient substance to proceed, the Convenor may conduct an investigation, or appoint a person to conduct an investigation on the Convenor's behalf, notifying the complainant, the Member and any other person considered to be appropriate, of this decision prior to commencing the investigation.

17. *Convenor to seek early resolution*

In order that complaints may be processed and resolved expeditiously, the Convenor shall seek to do so informally through any process the Convenor thinks fit and which is consistent with the principles set out in paragraph 3. Members shall cooperate with the Convenor in all reasonable attempts to seek an early resolution, whether the Member is complainant or respondent.

18. *Procedure when early resolution attempt unsuccessful*

Where any of the parties to a complaint declines early resolution offers, or where any early resolution process proves unsuccessful in resolving matters among the parties, the Convenor shall either:

- (i) In light of information or understanding obtained during the early resolution attempt, close the complaint and advise the parties accordingly; and
- (ii) Advise the parties of their right to appeal this decision to the Board of Governance; or
- (iii) Advise the parties that the complaint is moved to the complaints resolution phase.

19. *Parties may agree to Alternative Complaint Resolution*

In moving to the complaints resolution phase, The Convenor shall, in the first instance, offer the complainant (and, if complainant accepts the offer, the Member) one of three Alternative Complaint Resolution methods.

19.1 Indigenous Method

The Indigenous Method process, for Tangata Whenua Members and/or complainants, which involves a kanohi ki te kanohi engagement consistent with tikanga and can focus on the principles of manaaki, hohou te rongu and mana tangata. The Indigenous Method hui takes place in settings of relative informality and cultural familiarity and are consistent with Maori approaches to conflict resolution; or

19.2 Cultural Method

The Ethnic and Cultural Method process, which involves the engagement and conflict resolution methods of persons of any culture other than Maori, as negotiated with the parties. Mirroring Indigenous Method, the approach seeks to identify and apply culturally respectful processes relevant to Members and/or complainants from different ethnic and cultural groups; or

19.3 Restorative Process

The Restorative Process, which involves face-to-face conflict resolution facilitated by an independent person, will generally be the most appropriate informal resolution stream for other Members and/or complainant resolutions.

20. *Provisions relating to Alternative Complaint Resolution*

The following provisions apply:

- (i) The participants in an Alternative Complaint Resolution process shall be the facilitator, the complainant or complainants and the Member. Any other party attending, either to support the facilitator or in support of the complainant(s) and/or the Member, shall not have participant status and shall not ordinarily have speaking rights for the purposes of these procedures;
- (ii) The agreement of all participants is required before Alternative Complaint Resolution proceeds;
- (iii) The Convenor shall appoint a facilitator with appropriate skills in the resolution method to facilitate the process;
- (iv) The Convenor shall appoint two persons – a Full Member of ANZASW and a lay person - to assist the facilitator;

- (v) Complainants and Members may be accompanied by support persons agreed with the Convenor;
- (vi) All proceedings shall be conducted in private and results are not normally published unless publication is provided for in the Agreement reached;
- (vii) The Alternative Complaint Resolution methods may agree any outcomes the participants see fit and about which there is consensus;
- (viii) Any participant may decline consent at any time and on any issue, in which case, the provisions of paragraph 21 shall apply;
- (ix) Any Agreement reached shall include details of how the Agreement is to be monitored and over what period of time;
- (x) Where consensus about the outcomes of the process is achieved, the Agreement only shall be documented and forwarded to the Chief Executive;
- (xi) Any agreement reached through an Alternative Complaint Resolution process is a public document;
- (xii) No Alternative Complaint Resolution method has the power to discipline or punish Members or revoke their membership of the Association;
- (xiii) Within 6 months of the original proceedings, any participant involved in any Alternative Complaint Resolution process which reaches an Agreement may, where the participant perceives the Agreement to have broken down, notify the Convenor, in which cases, the provisions of Paragraph 21 shall apply.

21. Procedure when Alternative Complaint Resolution declined, unsuccessful or the Agreement has broken down

Where Alternative Complaint Resolution is declined; or where an Alternative Complaint Resolution procedure fails to reach agreement about how matters may be resolved; or where the Convenor receives notification from a participant that the Agreement has broken down, the Convenor shall either:

- (i) In light of information or understanding obtained during the Alternative Complaint Resolution attempt, close the complaint and advise the parties accordingly, giving reasons for the decision; and

- (ii) Advise the parties of their right to appeal this decision to the Board of Governance; or
- (iii) Convene a Disciplinary Hearing.

22. Provisions relating to convening a Disciplinary Hearing

The Convenor shall:

- (i) Represent the Chief Executive as prosecutor of the complaint;
- (ii) Appoint as Chair, a Barrister with appropriate skills for disciplinary hearings, to be the sole decision-maker;
- (iii) In liaison with the Chair, appoint 3 Full Members (who have not themselves been subject to ANZASW disciplinary proceedings) and 1 lay person to assist the Chair;
- (iv) Within 10 working days of constituting a Disciplinary Hearing Panel, consult with the Chair and fix a time and date when the matter will be heard and determined;
- (v) Thereafter forthwith cause to be served upon the Member concerned a notice:
 - a. Stating the Convenor has referred the complaint to a Disciplinary Hearing for determination; and
 - b. Containing such particulars as will clearly inform the Member of the substance of the complaint, the charges that will be inquired into as a result, and the possible outcomes of the matter, set out in Schedule II of these Procedures; and
 - c. Specifying the date and time and place at which the Disciplinary Hearing will occur; and
 - d. Providing the names of the Disciplinary Hearing Chair and Panel Members; and
 - e. Advising the Member that if he or she has any issue with the selection of any member of the Disciplinary Hearing Panel, he or she should advise the Convenor of the fact and the basis for it within five (5) working days;
 - f. Advising the Member that, after considering any response by the Member to Disciplinary Hearing Panel membership, the Convenor shall, within five (5) working days, either confirm the original Panel, or substitute any member or members as the Convenor deems fit.

23. Provisions relating to Disciplinary Hearings

The following provisions apply:

- (i) The Convenor shall formulate disciplinary offence charges and inform the complainant and Member, and any other person thought appropriate, of these and the range of possible outcomes at the earliest practicable opportunity;
- (ii) The Chair shall review all the documentation on the matter and either:

- a. Advise the Convenor, the Member and the complainant of the intention to conduct the Disciplinary Hearing on the papers and seek their consent; or
 - b. Advise the Convenor, the Member and the complainant that the matter will proceed to a convened Disciplinary Hearing; and
 - c. Provide the parties with an estimate of the time needed to conduct the Disciplinary Hearing.
- (iii) A convened Disciplinary Hearing shall be conducted in public, *except that*, where the Chair is of the opinion that it is proper to do so, having regard to the interests of any person and to the public interest, the Chair may determine that a Hearing or any part of a Hearing shall be conducted in private;
 - (iv) Complainants and Members are entitled to independent legal representation;
 - (v) The Convenor may represent complainants who choose not to engage independent legal representation;
 - (vi) Complainants and Members may be accompanied by support persons agreed with the Convenor, but support persons shall not have participant status and shall not ordinarily have speaking rights in the Disciplinary Hearing;
 - (vii) The Convenor and Member will exchange statements of evidence before a Disciplinary Hearing commences, in accordance with any Directions relating to the Hearing issued by the Chair after consultation with the parties or their representatives;
 - (viii) The Convenor and Member are entitled to cross examine or ask questions on this evidence, through the Chair and to make submissions to the Chair;
 - (ix) The Disciplinary Hearing may deliberate in private before the Chair reaches a determination;
 - (x) The proceedings of a Disciplinary Hearing shall be recorded;
 - (xi) Disciplinary Hearings shall be conducted according to the Guidance provided by the Chief Executive from time to time.

24. Disciplinary Hearing Determinations

The following provisions apply:

- (i) The Chair has available a range of determinations set out in Schedule II of these procedures that may be applied in the event that a disciplinary offence is found to have occurred;
- (ii) Where, following the issue of a Determination, the date or dates established by the Disciplinary Hearing are rendered impracticable, either by an appeal from any of the parties or for some other reason, the Chief executive may, on application by the Convenor, approve a new date or dates.

25. Convenor to Monitor Disciplinary Hearing Determinations

The Convenor shall monitor Disciplinary Hearing Determinations to ensure the outcome intentions of the Disciplinary Hearing are achieved. Where, following enquiry and communicating with the Member, the Convenor forms a belief that the Member is not complying, or has not complied, with any decision or order made by the Disciplinary Hearing Chair, the Convenor may fix a time and place for the Disciplinary Hearing to reconvene and reconsider and/or re-determine any orders made or penalties imposed, in the light of the Member's non-compliance. In such cases, the provisions of paragraphs 22 and 23 of these procedures apply.

Appeals

26. Appeals

- (i) Any person who is dissatisfied with the whole or any part of any decision or order of the Convenor or a Disciplinary Hearing may appeal to the Governance Board against that decision or order. Notices of Appeal shall be filed and served within twenty (20) working days of the date of notice of the decision or order:
 - a. on the Chief Executive; and
 - b. on the Convenor where the appeal is brought by the Member concerned; or
 - c. on the Member where the appeal is brought by the Convenor.
- (ii) Other than when the Convenor is the appellant, the Appellant shall pay the Chief Executive for the costs of transcribing any recording of the Disciplinary Hearing and preparing the record of the disciplinary hearing for the Governance Board.
- (iii) Unless the President of the Governance Board orders otherwise, no further action shall be taken in respect of an appeal until and unless the Appellant, other than the Convenor when the Convenor is the appellant, has paid the Chief Executive the costs referred to in the preceding sub-paragraph.

27. Provisions relating to appeals

The following provisions apply:

- (i) Unless the President of the Governance Board orders otherwise, the decision or order against which an appeal has been lodged shall continue in force, but will not come into effect, pending the determination of the appeal;
- (ii) Where the appeal relates to a decision or order of the Convenor, the Governance Board shall conduct the appeal by way of a review of the papers and any written submissions made by the Appellant and the Convenor;
- (iii) Where the appeal relates to a decision or order of a Disciplinary Hearing, the Governance Board shall conduct the appeal by way of a review of the written record of the Disciplinary Hearing and any written submissions made by the Member, the complainant and/or the Convenor, as appropriate;
- (iv) The powers of the Governance Board in determining appeals are specified in Schedule III of these procedures.

Duties of the Chief Executive

28. Chief Executive to Oversee Procedures

The Chief Executive shall be responsible for the oversight of the complaint procedures, issuing any supplementary guidance for the effective administration of the procedures: at the direction of the Governance Board; on the recommendation of the Convenor; or as he or she might deem fit. The Chief Executive shall report annually to the Association's Board of Governance in relation to the administration of the procedures and statistical data arising.

29. Chief Executive to Appoint Complaints Convenor

The Chief Executive shall appoint a Complaints Convenor who shall be accountable to the Chief Executive for the proper administration of these procedures.

30. Chief Executive to Establish Complaints Advisory Group

The Chief Executive shall appoint four (4) Full Members of the Association with knowledge of ethics and professional standards as the Complaints Advisory Group, at least two of whom are female, one of whom is male and two of whom are Maori. Where the Convenor is required to consult with the Complaints Advisory Group, it will be sufficient for the Convenor to do so with any two, three or four Members.

Appointment to the Complaints Advisory Group shall be for a period of two (2) years, such period to coincide with the financial year of the Association provided however that a member of the Complaints Advisory Group shall

continue to hold office until replaced or reappointed or resignation whichever first occurs.

31. Chief Executive to provide executive services for Convenor

The Chief Executive shall:

- (i) Establish a register of persons able to conduct early resolution processes;
- (ii) Establish a register of persons able to facilitate Alternative Complaint Resolution processes;
- (iii) Maintain a register of Full Members and lay persons who will assist in Alternative Complaint Resolution processes;
- (iv) Establish a register of persons able to act as Disciplinary Hearing Chair;
- (v) Establish a register of Full Members and lay persons able to join Disciplinary Hearing Panels;
- (vi) Provide all necessary clerical functions in relation to the duties and responsibilities of the Convenor;
- (vii) Coordinate the provision of such legal advice, interpretation and/or translation services as the Convenor may require at any stage of the Complaint Resolution Procedures;
- (viii) Provide such training and supervision as is required to enable the Convenor to carry out his or her duties and responsibilities.

Miscellaneous Provisions

32. Independence of the Convenor

In carrying out the duties and responsibilities of the Convenor prescribed in these procedures, the Convenor shall act independently.

33. Dispute between the Chief Executive and the Convenor.

In the event that a dispute arises between the Chief Executive and the Convenor in relation to the exercise of the duties and responsibilities of each of them, which cannot be resolved by them, the dispute shall be referred to the Governance Board for resolution.

34. Provisions about Membership

The following provisions apply:

- (i) Members may resign their membership of the Association while they are subject to these procedures;
- (ii) Where, at any point in the complaint resolution process, the Convenor forms a view that the Member may no longer be deemed fit (in terms of the Association's Fitness Assessment Protocols) to belong to and practice under the Association's rules,

- the Convenor shall bring the matter to the attention of the Chief Executive;
- (iii) The Convenor shall have powers to suspend membership and some of the rights of membership, and reinstate membership which has been suspended by the Convenor, from time to time and at any time during the Complaints Resolution Process. These powers are specified in Schedule I of these procedures.

35. *Relationship of Disciplinary Hearing Determinations and the ANZASW Competency Procedures*

The following provisions apply:

- (i) The Certificate of Competency for any Member subject to a Disciplinary Hearing Determination is suspended;
- (ii) A Member subject to a Disciplinary Hearing Determination may return to full membership when:
 - a. The Convenor certifies that all Determination conditions have been met; and
 - b. The Member achieves competency certification or re-certification;
- (iii) Where competency certification or recertification assessment follows a Disciplinary Hearing Determination and the Member meets the required competency standards then the Member's competency is validated for five years from the date of this assessment.

36. *Relationship of ANZASW Complaint Procedures and Disciplinary provisions of the Social Worker's Registration Act 2003*

The following provisions apply:

- (i) The Convenor shall have powers to suspend membership and some of the rights of membership, and reinstate membership which has been suspended by the Convenor, from time to time and at any time during any disciplinary proceedings conducted by the Social Worker's Registration Board. These powers are specified in Schedule I of these procedures;
- (ii) Where the Association is notified that the Social Worker's Registration Board has imposed a penalty on, or made an order relating to, any Member pursuant to the provisions of the Social Worker's Registration Act 2003, the Chief Executive shall consider what impact such penalty or order should have in relation to the Member's membership of the Association;
- (iii) The Chief Executive shall, according to the circumstances:
 - a. Take no further action; or
 - b. Suspend the Member's current Competency Certificate; and/or
 - c. Conduct a Fitness Assessment; or
 - d. Refer the matter to the Convenor for a Disciplinary Hearing.

37. Notification of Disciplinary Hearing Determinations to other bodies

The Chief Executive shall provide a copy of the Disciplinary Hearing Determination to any legal person, commission or other relevant organisation that has an interest in the matter.

38. Service of notifications or documents

Any notification or document required to be given or served to any person may be given or served:

- (i) by personal service;
- (ii) by physically leaving it at the person's last known place of business or residence;
- (iii) by posting it by registered post or by ordinary letter addressed to the person's last known place or business or residence (in the case of ordinary post, service shall be deemed in the absence of evidence to the contrary, to have been effected on the 4th working day after posting);
- (iv) by e-mail; or
- (v) in such other manner as may be determined by the Governance Board.

39. Limitation on liability

No person exercising functions relating to these Procedures, nor any employee or agent of any of them, shall be under any criminal or civil or other liability in respect of anything done or omitted to be done, or of any words spoken or written, at or for the purposes of any investigation, resolution process or hearing or otherwise during the course of acting under these procedures unless it is proved to the satisfaction of the Court or tribunal before which any proceedings are taken that the defendant in the proceedings acted in bad faith or maliciously.

40. Want of Form

No processes or proceedings under these procedures shall be quashed or set aside or held invalid by reason only of want of form, or failure to comply strictly with any provisions in these procedures if despite the deficiencies due process was followed.

41. *Timeframes*

The Chief Executive may, for sufficient reason on the application of any relevant person, extend any time prescribed or allowed under these Standing Orders.

Schedule I

Convenor Powers affecting Membership during the Complaints Resolution Process

1. The Convenor shall have the power to suspend membership and/or some of the rights of membership, and/or reinstate membership rights wholly or partially which have been suspended by the Convenor, from time to time and at any time during the Complaints Resolution Process or during any disciplinary proceedings conducted by the Social Worker's Registration Board.
2. When any suspension is proposed, the Convenor shall: notify the Member and the Chief Executive Officer of the proposal about membership and the reasons for it; invite the Member to provide, in writing, within a time specified in the notification (being no less than 14 days), a response to any proposal about membership; and consider any such response before reaching a final determination about suspension.
3. Suspension shall not entitle the Member to any refund of any unexpired subscription monies;
4. Suspension of membership may include any one or more of the following:
 - (i) Suspension of the right to attend Association meetings except where such meetings are open to the public;
 - (ii) Suspension of the right to vote on Association matters;
 - (iii) Suspension of the right to represent oneself as an officeholder of the Association;
 - (iv) Suspension of the right to represent oneself as a Member of the Association;
 - (v) Suspension of the right to hold or display a Certificate of Competency issued by the Association;
 - (vi) Suspension of access to Member Only publications.

Schedule II

Determination Options of a Disciplinary Hearing

1. In any proceedings considering a charge of professional misconduct, a Disciplinary Hearing Chair may, if the Chair determines the conduct complained of is insufficient upon which to find a charge proven, substitute another charge. Before any such substitution the Chair shall provide the parties with an opportunity to make submissions on the proposal to do so and consider such submissions.
2. Either as a result of a determination on the papers or following a hearing, a Disciplinary Hearing Chair may:
 - (i) Determine that the charge is not proven; or
 - (ii) Determine that the charge is proven but impose no conditions; or
 - (iii) Determine that the charge is proven and make an order censuring the Member; and/or
 - (iv) Determine that the charge is proven and place conditions on the Membership of the Member, which may include any one or more of the following:
 - a. That the Member undergo a specified programme of training,
 - b. That the Member undertake additional supervision at the Member's expense, by a person nominated by the Association (and where the Member is not self-employed, agreed by the Member's employer) for a specified period,
 - c. That the Member undertake mentoring at the Member's expense, by a person nominated by the Association (and where the Member is not self-employed, agreed by the Member's employer) for a specific period;
 - d. That the Member is restricted from practicing in any specified field of practice or with any specified type of client, for a specified period;
 - e. That the Member apologise in writing to any legal person, commission or other relevant organisation; or to any complainant, or to their employer, or to any professional colleague, within or by a specified time,

- f. That the Member pay a sum not exceeding \$5,000.00 to the complainant within or by a specified time;
 - g. That the Member pay a sum towards the costs of and incidental to the Hearing within or by a specified time;
 - h. That the Member pay a sum not exceeding \$5,000.00 to the Association within or by a specified time;
 - i. That the membership of the Member be suspended for a specified period; or
- (v) Determine that the charge is proven and revoke the Member's Membership of the Association; and
 - (vi) Make any order in relation to the costs of the Disciplinary Hearing that the Chair deems appropriate; and
 - (vii) Unless the Chair determines there are grounds not to do so, make an order as to publication of: the identity of the Member; the charge(s); the evidence presented at the Hearing, if held; and the Hearing determination, for such time and on such terms as the Disciplinary Hearing Chair deems appropriate; and to vary or revoke any such order from time to time;
 - (viii) Unless the Chair determines there are grounds not to do so, make an order suppressing the identity of the complainant;
 - (ix) Where the Chair determines it is proper to do so, having regard to the interests of any person or to the public interest, the Chair may:
 - a. Make an order prohibiting the publication of the whole or any part of any books, evidence or documents given or produced at a Hearing;
 - b. Make an order prohibiting the publication or report of any part or the whole of any proceeding before it;
 - c. Make an order prohibiting the publication of the name or any particulars which might identify any Member charged or any other person appearing before a Hearing;
 - d. Vary or revoke any such order from time to time;
 - e. Make any such order permanent, or for such time or on such terms as the Chair deems appropriate.

Schedule III

Powers of the Governance Board in relation to Appeals

The following provisions apply in event of appeal:

- (i) The Governance Board shall, on notification from the Chief Executive that an appeal has been lodged:
 - a. Elect an Appeal Board of between 3 to 5 Board members to carry out the functions of the Governance Board in relation to the appeal; and
 - b. Appoint a legal advisor.
- (ii) The Governance Board shall have the power to confirm the whole or any part of the decision and/or all/any of any order/s against which the appeal has been lodged;
- (iii) Where the appeal relates to a decision or order of the Convenor and the Governance Board determines, after an examination of written records and written submissions, that it cannot confirm the whole or any part of the decision and/or all/any of any order/s against which the appeal has been lodged, the Governance Board shall have the power to modify or reverse the whole or any part of the decision and/or all/any or any order/s;
- (iv) Where the appeal relates to a determination of a Disciplinary Hearing and the Governance Board determines, after reviewing the written record of the Disciplinary Hearing and the written submissions of the parties to the appeal, it cannot confirm the whole or any part of the determination against which the appeal has been lodged, the Governance Board shall annul all of the determination, or such part or parts of the determination with which it does not agree, and direct that a new Disciplinary Hearing be convened, pursuant to paragraph 22 of the procedures, in relation to the matters about which it does not agree.
- (v) The Governance Board shall have the power to order any party to the appeal to pay such sum towards the costs, if any, of and incidental to the appeal.
- (vi) Subject to the foregoing, and subject to compliance with the principles of natural justice, The Governance Board shall have the power to regulate its procedure as it sees fit.
- (vii) All decisions of the Governance Board shall be final and given in writing with reasons.